

**CONTRACT NO. C1000113**

**CONVENIENCE CONTRACT FOR PURCHASED SERVICES**

**BETWEEN**

**STATE OF WASHINGTON**

**AND**

**THERMO KING NORTHWEST, INC.**

This Contract is made and entered into by and between the state of Washington, Department of Ecology, referred to as the "AGENCY", and the below named firm, referred to as "CONTRACTOR."

Thermo King Northwest, Inc.  
913 Central Avenue S.  
Kent, WA 98032  
253.850.8133 (phone)  
253.850.1814 (fax)  
[jeffwilson@tknw.com](mailto:jeffwilson@tknw.com)  
20-3718007 (Federal ID Number)  
602-552-071 (WA UBI)

**PURPOSE**

The purpose of this contract is to provide for the as-needed purchase and installation of idle reduction technologies with all necessary mounting hardware for diesel powered transit and school bus fleets (fleet). The primary purchasers will be Department of Ecology, Department of Ecology Clean Diesel Grant Program awardees, and local clean air agencies.

This contract will provide idle reduction technologies that eliminate unnecessary idling by pre-heating the vehicle's engine to eliminate cold starts, defrosting windows, and reducing the vehicle's toxic and greenhouse gas emissions.

Transit authorities and school districts identified three idle reduction options that meet the needs for their fleets. These options include:

- Option 1: Diesel powered engine pre-heaters (Espar Basic D5 or Espar D4 Hydronic Heater)
- Option 2: Diesel powered engine pre-heaters/cabin heaters (Espar Basic D5 E-Guardian or Espar Basic M-II E-Guardian)
- Option 3: Diesel powered engine pre-heaters with independent deep-cycle battery (Espar Basic D5 E-Guardian or Espar D4 Hydronic Heater, EON Power Pack, and Red Dot R-254 or R255 Auxiliary Heaters)

**SCOPE OF WORK**

- A. Exhibit A, attached hereto and incorporated by reference, contains the General Terms and Conditions governing work to be performed under this contract, the nature of the working relationship between the AGENCY and the CONTRACTOR, and specific obligations of both parties.
- B. The CONTRACTOR will provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

Task 1: The purchaser will provide a list of fleets selected to participate, including a list of vehicles suggested for retrofit. The CONTRACTOR will schedule a visit to the selected fleet site to meet with the fleet manager. The CONTRACTOR will discuss the technology options with the fleet manager. Once the fleet manager has chosen a technology option, the CONTRACTOR will inspect each vehicle that is to be considered for retrofit. (Vehicles less than ten (10) years old are the primary candidates for retrofit, although some older vehicles may qualify.) The CONTRACTOR will determine the appropriate size of the idle reduction technology retrofit kit for the selected vehicles.

Task 2: The CONTRACTOR will provide both the fleet manager and the AGENCY a work order that includes the vehicles selected for retrofit and the idle reduction technology selected with all installation options. The work order should include the price for selected parts and standard installation, plus any additional charges that apply. The AGENCY and the fleet manager must approve all charges.

Task 3: Upon receiving approval for the work order from the fleet manager and the AGENCY, the CONTRACTOR will order parts and mounting hardware. The CONTRACTOR will schedule an appointment with the fleet manager to deliver and install the idle reduction technologies. The CONTRACTOR will schedule and provide one training session to fleet mechanics on the operation and maintenance of the idle reduction technology.

Task 4: The CONTRACTOR will install the selected idle reduction technology on designated vehicles at designated fleet site. The CONTRACTOR insures that the idle reduction technology installations will not void any existing warranty on retrofitted vehicles. The CONTRACTOR will provide a warranty statement to each fleet owner. The CONTRACTOR is responsible for all cleanup associated with installations.

#### Required Deliverables

- Within ten working days (two weeks) of the effective date of the contract, the CONTRACTOR will provide the AGENCY a schedule to accomplish Task 1, 2, 3, and 4 for each fleet included in this project.
  - For each fleet included in the project, the CONTRACTOR will notify the AGENCY immediately upon occurrence the date a project begins and the date a project ends.
  - The CONTRACTOR will provide the AGENCY with an electronic monthly report due on the last day of each month following the effective date of the AGREEMENT. If the last day of the month falls on a weekend or holiday, the report will be due the next business day. This report will be submitted on a mandatory electronic form provided by the AGENCY.
  - Upon completion of installing all products and providing training on the operation and maintenance of idle reduction technologies, the CONTRACTOR will provide fleet owners with a written invoice containing the cost for equipment and installation or installation training;
  - The CONTRACTOR will provide each fleet at least two (2) operation and maintenance manuals.
  - The CONTRACTOR will provide fleet owners with a written labor and materials warranty for parts and services provided.
- C. All written reports required under this contract must be delivered to the Contract Manager, in accordance with the schedule above.

### PERIOD OF PERFORMANCE

The period of performance under this contract will be from September 15, 2009 through September 30, 2010. Amendments extending the period of performance, if any, shall be at the sole discretion of the AGENCY. The AGENCY reserves the right to extend the contract for two (2) additional one (1) year periods.

### SOURCE OF FUNDS



\$193,000 of this contract is funded with the American Recovery and Reinvestment Act of 2009 (Recovery Fund), Catalogue of Federal Domestic Assistance #66.040 – Recovery Act Funding for State Clean Diesel Program.

### AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) CONTRACT REQUIREMENTS

#### **A. Recovery Act Reporting Requirements; Section 1512(c) of the Recovery Act**

CONTRACTOR acknowledges and agrees that the American Recovery and Reinvestment Act of 2009, hereinafter "Recovery Act" places great emphasis on accountability and transparency in the use of taxpayer dollars. Among other things, it creates a new Recovery Accountability and Transparency Board and a new website -- Recovery.gov -- to provide information to the public, including access to detailed information on grants and contracts made with Recovery Act funds.

The Department of Ecology, as a recipient of Recovery Act funds, must comply with the Recovery Act's extensive reporting requirements, including quarterly financial and programmatic reporting due within 10 calendar days after the end of each calendar quarter. The Department of Ecology will require periodic reports from its sub-recipients in order to fulfill its reporting obligations.

CONTRACTOR receiving Recovery Act funds may expect that a standard form(s) and/or reporting mechanism will be made available at a future date.

CONTRACTOR agrees to provide to the Department of Ecology all reports, documentation, or other information, as may be required by the Department of Ecology to meet reporting obligations under the Recovery Act. CONTRACTOR's receipt of funds is contingent on CONTRACTOR meeting the reporting requirements of Section 1512.

Additional instructions and guidance regarding the required reporting will be provided as they become available. For planning purposes, however, CONTRACTOR s receiving Recovery Act funds should be aware that Recovery Act section 1512(c) provides:

Recipient Reports- Not later than 10 days after the end of each calendar quarter, each recipient that received recovery funds from a Federal agency shall submit a report to that agency that contains—

- (1) The total amount of recovery funds received from that agency;
- (2) The amount of recovery funds received that were expended or obligated to projects or activities; and
- (3) A detailed list of all projects or activities for which recovery funds were expended or obligated, including:
  - (a) The name of the project or activity;
  - (b) A description of the project or activity;
  - (c) An evaluation of the completion status of the project or activity;
  - (d) An estimate of the number of jobs created and the number of jobs retained by the project or activity; and

- (e) For infrastructure investments made by State and local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under the Recovery Act, and name of the person to contact at the agency if there are concerns with the infrastructure investment.
- (4) Detailed information on any subcontracts or subgrants awarded by the recipient to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), allowing aggregate reporting on awards below \$25,000 or to individuals, as prescribed by the Director of the Office of Management and Budget.

**B. Section 1512 of the Recovery Act: Registration with Central Contractor Registration (CCR)**

Recipients of funds under the Recovery Act shall register with the Central Contractor Registration (CCR) database at [www.ccr.gov](http://www.ccr.gov). This ensures consistent reporting of data about each entity and thereby makes data more useful to the public. In order to register in CCR, a valid Data Universal Numbering System (DUNS) Number is required and should be included on the cover page or other designated place in this agreement.

**C. Section 1602 of the Recovery Act: Preference for Quick-Start Activities (if applicable)**

Section 1602 of the Recovery Act provides:

In using funds made available in the Recovery Act for infrastructure investment, recipients shall give preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds for activities that can be initiated not later than 120 days after the date of the enactment of the Recovery Act. Recipients shall also use funds in a manner that maximizes job creation and economic benefit.

**D. Section 1604 of the Recovery Act: Limit on Funds**

Section 1604 of the Recovery Act provides:

None of the funds appropriated or otherwise made available in the Recovery Act may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

**E. Required Use of American Iron, Steel, and Manufactured Goods—Section 1605 of the American Recovery and Reinvestment Act of 2009**

*Note: For projects funded by the Department of Ecology Air Quality Program, the Buy American Terms and Conditions apply only to Truck Stop Electrification (TSE) projects and diesel emissions reductions projects for heavy generators (such as those used in public energy production) which are considered to be public works when a governmental entity is conducting the project.*

CONTRACTOR shall comply with Section 1605 of the Recovery Act unless (1) compliance has been waived by the Federal Agency providing the funds; or (2) compliance with the Recovery Act conflicts with an international trade agreement.

1 Section 1605 of the Recovery Act provides:

Use of American Iron, Steel, and Manufactured Goods.

- (a) None of the funds appropriated or otherwise made available by the Recovery Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public

work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.

(b) Subsection (a) shall not apply in any case or category of cases in which the head of the Federal department or agency involved finds that:

- (1) applying subsection (a) would be inconsistent with the public interest;
- (2) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
- (3) inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) If the head of a Federal department or agency determines that it is necessary to waive the application of subsection (a) based on a finding under subsection (b), the head of the department or agency shall publish in the Federal Register a detailed written justification as to why the provision is being waived.

(d) This section shall be applied in a manner consistent with United States obligations under international agreements.

## 2 International Trade Agreements.

[Contracts/Grants] for the procurement of goods and services in the amount of \$528,000 or more and for constructions services in the amount of \$7,443,000 or more are covered by an international trade agreement and are therefore not subject to Section 1605.

## 3 Waivers.

CONTRACTOR shall provide The Department of Ecology with information and applicable supporting data as may be required by The Department of Ecology, to support any request for waiver of compliance with Section 1605 (b) of the Recovery Act. The following applies to requests for waivers submitted to The Department of Ecology.

### (a) Definitions.

"Manufactured good" means a good brought to the construction site for incorporation into the building or work that has been:

- (1) Processed into a specific form and shape; or
- (2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

"Public building" and "public work" means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

"Steel" means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

### (b) Domestic preference.

- (1) This award term and condition implements Section 1605 of the Recovery Act of 2009 by requiring that all iron, steel, and manufactured goods used in the project are produced in

the United States except as provided in paragraph (b)(3) and (b)(4) of this term and condition.

- (2) This requirement does not apply to the material excepted by the Federal Government.
- (3) The award official may add other iron, steel, and/or manufactured goods to the list in paragraph (b) (2) of this term and condition if the Federal Government determines that:
  - (i) The cost of the domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;
  - (ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
  - (iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.
- (c) Request for determination of inapplicability of Section 1605 of the Recovery Act.
  - (1)(i) Any request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b) (3) of this term and condition shall include adequate information for Federal Government evaluation of the request, including—
    - (A) A description of the foreign and domestic iron, steel, and/or manufactured goods;
    - (B) Unit of measure;
    - (C) Quantity;
    - (D) Cost;
    - (E) Time of delivery or availability;
    - (F) Location of the project;
    - (G) Name and address of the proposed supplier; and
    - (H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(3) of this term and condition.
  - (ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this term and condition.
  - (iii) The cost of iron, steel, and/or manufactured goods material shall include all delivery costs to the construction site and any applicable duty.
  - (iv) Any request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the CONTRACTOR could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated.
- (2) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the Department of Ecology will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other actions taken to cover

costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the Department of Ecology shall adjust the award amount or redistribute budgeted funds in accordance with requirements adopted pursuant to the Recovery Act.

- (3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods is noncompliant with section 1605 of the American Recovery and Reinvestment Act.

(d) Data. To permit evaluation of requests under paragraph (b) of this term and condition based on unreasonable cost, the following information and any applicable supporting data based on the survey of suppliers should be provided to The Department of Ecology:

FOREIGN AND DOMESTIC ITEMS COST COMPARISON			
Description	Unit of Measure	Quantity	Cost (Dollars)*
Item 1:			
Foreign steel, iron, or manufactured good	_____	_____	_____
Domestic steel, iron, or manufactured good			
Item 2:			
Foreign steel, iron, or manufactured good			
Domestic steel, iron or manufactured good			

[List name, address, telephone number, email address, and contact for suppliers surveyed.]

[Attach copy of response; if oral, attach summary.]

[Include other applicable supporting information.]

[\*Include all delivery costs to the construction site.]

**F. Wage Rate Requirements under Section 1606 of the American Recovery and Reinvestment Act of 2009 – Davis-Bacon Act**

*Note: For projects funded by the Department of Ecology Air Quality Program, the Wage Rate Requirements under Section 1606 of the American Recovery and Reinvestment Act of 2009 – Davis Bacon Act Terms and Conditions apply only to construction, alteration, and repair activity involving the following projects:*

- *Construction activities conducted in conjunction with the installation of any diesel emissions reduction technology, such as the installation of a Truck Stop Electrification (TSE) system.*
- *Construction activities conducted in conjunction with the installation or replacement of a heavy generator.*
- *Installation of verified technologies by construction laborers and/or construction mechanics on-site at a construction site on vehicles and/or equipment at the construction site.*
- *Repower projects conducted by construction laborers and/or construction mechanics on-site at a construction site on vehicles and/or equipment at the construction site.*

- *Certified vehicle and/or engine replacement projects conducted by construction laborers and/or construction mechanics on-site at a construction site on vehicles and/or equipment at the construction site.*

All laborers and mechanics employed by CONTRACTOR and [subcontractor/subgrantees] on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act, shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (Davis-Bacon Act). With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan numbered 14 of 1950 (64 Stat. 1267, 5 U.S.C. App.) and section 3145 of title 40 United States Code. See U.S. Department of Labor, Wage and Hour Division website at <http://www.dol.gov/esa/whd/contracts/dbra.htm>. Wage determinations can be found at <http://www.wdol.gov>.

The CONTRACTOR shall include this provision and require this provision to be contained in all [subcontracts/subgrants] for work performed under this Contract.

The work performed by this Contract may also be subject to the State's prevailing wage laws, Chapter 39.12 RCW. The CONTRACTOR is advised to consult with the Washington State Department of Labor and Industries to determine the prevailing wages that must be paid.

**G. Non-supplanting of State and Local Funds (if applicable -- consult the program solicitation and the special conditions in the award document)**

CONTRACTORS must use federal funds to supplement existing State and local funds for program activities and must not replace (supplant) State or local funds that they have appropriated or allocated for the same purpose. Potential supplanting will be the subject of monitoring and audit. Violations may result in a range of penalties, including suspension of current and future funds under this program, suspension or debarment from federal grants, recoupment of monies provided under a grant, and civil and/or criminal penalties. For additional guidance regarding supplanting, refer to the information provided at <http://www.ojp.usdoj.gov/recovery/supplantingguidance.htm>.

**H. Protection of Whistleblowers**

Prohibition on Reprisals: An employee of any non-Federal employer receiving covered funds under the Recovery Act may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer who has the authority to investigate, discover or terminate misconduct,) a court or grand jury, the head of a Federal agency, or their representatives information that the employee believes is evidence of:

- Gross mismanagement of an agency contract or grant relating to covered funds;
- Gross waste of covered funds;
- Substantial and specific danger to public health or safety related to the implementation or use of covered funds;
- Abuse of authority related to the implementation or use of covered funds; or
- Violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.



**I. ARRA – Listing Recovery Act Jobs With The Employment Security Department**

This Contract is funded with federal stimulus funds (under the American Recovery & Reinvestment Act), which has strict reporting requirements for funds spent and jobs created or retained (See Exhibit A, attached and incorporated into this Contract as additional instructions). All job openings created by the CONTRACTOR for this project must be listed with the WorkSource system (an affiliate of the Employment Security Department) before hiring; all hiring decisions also must be reported to WorkSource. In addition, all [Sub-Contractors/Sub-Grantees] hired by the CONTRACTOR also must be required to list jobs and report hiring results to WorkSource. Existing CONTRACTOR or [Sub-CONTRACTOR /Sub-Grantee] employees who are retained using funds from this project also must be reported to WorkSource.

WorkSource will pre-screen and refer qualified job candidates for the CONTRACTOR's consideration. The CONTRACTOR also has the discretion to use other, additional recruitment systems and retains the right to make all hiring decisions.

To begin the listing and reporting process, contact the ARRA Business Unit at 877-453-5906 (toll-free), 360-438-4849 or [ARRA@esd.wa.gov](mailto:ARRA@esd.wa.gov).

**J. Disadvantaged Business Enterprise:**

As with all federally funded projects, Recovery Funded CONTRACTOR s agree to comply with the requirements of the Environmental Protection Agency's Program for Utilization of Small, Minority, and Women's Business Enterprises (40CFR, Part 33) in procurement under this AGREEMENT.

Non-discrimination Provision. The RECIPIENT will comply with all federal and state nondiscrimination laws, including, but not limited to Chapter 49.60 RCW, Washington's Law Against Discrimination, and 42 U.S.C. 12101 et seq, the Americans with Disabilities Act (ADA).

In the event of the CONTRACTOR's noncompliance or refusal to comply with any applicable nondiscrimination law, regulation, or policy, this AGREEMENT may be rescinded, canceled, or terminated in whole or in part, and the RECIPIENT may be declared ineligible for further funding from the DEPARTMENT. The RECIPIENT will, however, be given a reasonable time in which to cure this noncompliance.

- 1) Ensuring Disadvantaged Business Enterprises are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing Disadvantaged Business Enterprises on solicitation lists and soliciting them whenever they are potential sources. *Qualified Women and Minority business enterprises may be found on the Internet at [www.omwbe.wa.gov](http://www.omwbe.wa.gov) or by contacting the Washington State Office of Minority and Women's Enterprises at 360-704-1181.*
- 2) Making information on forthcoming opportunities available to Disadvantaged Business Enterprises and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by Disadvantaged Business Enterprises in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of thirty (30) calendar days before the bid or proposal closing date.
- 3) Considering in the contracting process whether firms competing for large contracts could subcontract with Disadvantaged Business Enterprises. For Indian Tribal, State and local

Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.

- 4) Encourage contracting with a consortium of Disadvantaged Business Enterprises when a contract is too large for one of these firms to handle individually.
- 5) Using services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- 6) If the prime CONTRACTOR awards subcontracts, requiring the subcontractors to take the six good faith efforts in paragraphs A through E above.

Pursuant to 40 CFR, Section 33.501(b) and (c), the CONTRACTOR also agrees to create and maintain a bidders list for both Disadvantaged Business Enterprises (DBE) and Non-Disadvantaged Business Enterprises (non-DBE). The purpose of a bidders list is to provide the recipient and entities receiving identified loans who conduct competitive bidding with as accurate a database as possible about the universe of DBE and non-DBE prime and subcontractors. The list must include all firms that bid or quote on prime contracts, or bid or quote subcontracts on Environmental Protection Agency assisted projects, including both DBE and non-DBE. The bidders list must only be kept until the grant project period has expired and the recipient is no longer receiving Environmental Protection Agency funding under the grant. For entities receiving identified loans, the bidders list must only be kept until the project period for the identified loan has ended. The following information must be obtained from all prime and subcontractors: entity's name with point of contact; entity's mailing address, telephone number, and e-mail address; the procurement on which the entity bid or quoted, and when; and entity's status as a DBE or non-DBE.

The CONTRACTOR agrees to provide Environmental Protection Agency Form 6100-2 DBE Subcontractor Participation and Environmental Protection Agency Form 6100-3 DBE Subcontractor Performance to all its Disadvantaged Business Enterprise subcontractors.

**K. Project Signs:**

The RECIPIENT agrees to display the American Recovery and Reinvestment Act of 2009 logo in a manner that informs the public that the project is an American Recovery and Reinvestment Act of 2009 investment. This logo may be obtained from the Environmental Protection Agency (EPA) grant office at: EPA Region 10, Mail Code: OMP-145, 1200 Sixth Avenue, Suite 900, Seattle, WA, 98101 or by contacting the DEPARTMENT's Project Manager or Financial Manager.

The EPA logo is displayed along with the American Recover and Reinvestment Act of 2009 logo and logos of other participating entities. The American Recovery and Reinvestment Act of 2009 logo must not be displayed in a manner that implies that the EPA itself is conducting the project. Instead, the EPA logo must be accompanied with a statement indicating that the RECIPIENT received financial assistance from EPA for the project.

**L. Office of Management and Budget (federal) Guidance:**

This award is subject to all applicable provisions of implementing guidance for the American Recovery and Reinvestment Act of 2009 issued by the United States Office of Management and Budget, including the Initial Implementing Guidance for the American Recovery and Reinvestment

Act (M-09-10) issued on February 18, 2009 and available on [www.recovery.gov](http://www.recovery.gov), and any subsequent guidance documents issued by OMB.

**M. Government Accounting Office/Inspector General Access:**

The CONTRACTOR agrees to comply with the requirements as described in the Access of Government Accountability Office, Section 902, of the American Recovery and Reinvestment Act of 2009. This section gives the Comptroller General and his representatives authorization:

- 1) To examine any records of the CONTRACTOR or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and
- 2) To interview any officer or employee of the CONTRACTOR or any of its subcontractor, or of any State or local government agency administering the contract, regarding such transactions.

**CERTIFICATION REGARDING SUSPENSION, DEBARMENT, AND OTHER RESPONSIBILITY MATTERS**

Federal Executive Order 12549 provides that Executive departments and agencies shall participate in a government-wide system for monitoring suspended, debarred and excluded parties. These departments and agencies have further passed this requirement onto their contractors and have provided pertinent regulations in the Code of Federal Regulations. The CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot. The web site for checking suspended, debarred or excluded parties is [www.epls.gov](http://www.epls.gov).

**COMPENSATION**

Total compensation payable to CONTRACTOR for satisfactory performance of the work performed under this contract shall not exceed five hundred thousand dollars (\$500,000) inclusive of all costs. Compensation is contingent upon the availability of funding.

**BILLING PROCEDURES AND PAYMENT**

The AGENCY will pay CONTRACTOR upon acceptance of services provided and receipt of properly completed invoices – using Invoice Voucher A19-1A, which shall be submitted to the Contract Manager not more often than monthly.

The invoices (Invoice Voucher A19-1A) shall describe and document, to the AGENCY's satisfaction, a description of the work performed the progress of the project, and fees. The invoice shall include reference to Contract No. C1000113. If expenses are invoiced, provide a detailed breakdown of each type. A receipt must accompany any single expenses in the amount of \$50.00 or more in order to receive reimbursement.

Payment shall be considered timely if made by the AGENCY within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the CONTRACTOR.

The AGENCY may, in its sole discretion, terminate the contract or withhold payments claimed by the CONTRACTOR for services rendered if the CONTRACTOR fails to satisfactorily comply with any term or condition of this contract.

No payments in advance or in anticipation of services or supplies to be provided under this contract shall be made by the AGENCY.

#### CONTRACT MANAGEMENT

The Contract Manager for each of the parties shall be the contact person for all communications and billings regarding the performance of this contract.

Contract Manager for Contractor is:	Contract Manager for the Agency is:
Contract Mgr Name: Jeff Wilson Contractor Name: Thermo King Northwest Address: 913 S Central Ave City, State Zip Code: Kent, WA 98032 Phone: (253) 850 8133 Fax: (253) 850 1814 E-mail address: <a href="mailto:jeffwilson@thnw.com">jeffwilson@thnw.com</a>	Contract Mgr Name: Cheryl Witt Agency Name: Department of Ecology Address: PO Box 47600 City, State Zip Code: Lacey, WA 98504 Phone: (360) 407 6805 Fax: (360) 407 7534 E-mail address: <a href="mailto:cwit461@ecy.wa.gov">cwit461@ecy.wa.gov</a>

#### INSURANCE

The CONTRACTOR shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the State should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the CONTRACTOR or subcontractor, or agents of either, while performing under the terms of this contract. The CONTRACTOR shall provide insurance coverage, which shall be maintained in full force and effect during the term of this contract, as follows:

1. Commercial General Liability Insurance Policy. Provide a Commercial General Liability Insurance Policy, including contractual liability, in adequate quantity to protect against legal liability arising out of contract activity but no less than \$1,000,000 per occurrence.

Additionally, the CONTRACTOR is responsible for ensuring that any subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.

2. Automobile Liability. In the event that services delivered pursuant to this contract involve the use of vehicles, either owned or unowned by the CONTRACTOR, automobile liability insurance shall be required. The minimum limit for automobile liability is:

\$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.

3. The insurance required shall be issued by an insurance company/ies authorized to do business within the state of Washington, and shall name the state of Washington, its agents and employees as additional insured's under the insurance policy/ies. All policies shall be primary to any other valid and collectable insurance. CONTRACTOR shall instruct the insurers to give the AGENCY thirty (30) calendar days advance notice of any insurance cancellation.

CONTRACTOR shall submit to the AGENCY within fifteen (15) calendar days of the contract effective date, a certificate of insurance that outlines the coverage and limits defined in the *Insurance* section. CONTRACTOR shall submit renewal certificates as appropriate during the term of the contract.

### ASSURANCES

The AGENCY and the CONTRACTOR agree that all activity pursuant to this contract will be in accordance with all the applicable current federal, state and local laws, rules, and regulations.

### ORDER OF PRECEDENCE

Each of the exhibits listed below is by this reference hereby incorporated into this contract. In the event of an inconsistency in this contract, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable Federal and state of Washington statutes and regulations;
- Special Terms and Conditions as contained in this basic contract instrument;
- Exhibit A – General Terms and Conditions;
- Exhibit B – CONTRACTOR's Price List;
- Request for Qualifications and Quotations No. 1001 AQP, incorporated by this reference; and
- Any other provision, term or material incorporated by reference or otherwise incorporated.

### ENTIRE AGREEMENT

This contract, including referenced exhibits, represents all the terms and conditions agreed upon by the parties. No other statements or representations, written or oral, shall be deemed a part hereof.

### CONFORMANCE

If any provision of this contract violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

### APPROVAL

This contract shall be subject to the written approval of the AGENCY's authorized representative and shall not be binding until so approved. The contract may be altered, amended, or waived only by a written amendment executed by both parties.

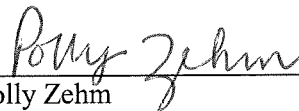
THIS CONTRACT is signed by the persons signing below, who warrant they have the authority to execute the contract.

Thermo King Northwest, Inc.

Department of Ecology



Brandon Pugh



Polly Zehm



Vice President – Sales and Marketing

9/17/09

Date

Deputy Director

9/29/09

Date

Approved as to form only: Attorney General Office

## EXHIBIT A - GENERAL TERMS AND CONDITIONS

### Definitions

As used throughout this contract, the following terms shall have the meaning set forth below:

- A. "AGENCY" shall mean the Department of Ecology of the state of Washington, any division, section, office, unit or other entity of the AGENCY, or any of the officers or other officials lawfully representing that AGENCY.
- B. "AGENT" shall mean the Director, and/or the delegate authorized in writing to act on the Director's behalf.
- C. "CONTRACTOR" shall mean that firm, provider, organization, individual or other entity performing service(s) under this contract, and shall include all employees of the CONTRACTOR.
- D. "SUBCONTRACTOR" shall mean one not in the employment of the CONTRACTOR, who is performing all or part of those services under this contract under a separate contract with the CONTRACTOR. The terms "SUBCONTRACTOR" and "SUBCONTRACTORS" means SUBCONTRACTOR(s) in any tier.

### Access to Data

In compliance with RCW 39.29.080, the CONTRACTOR shall provide access to data generated under this contract to AGENCY, the Joint Legislative Audit and Review Committee, and the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions and recommendations of the CONTRACTOR's reports, including computer models and methodology for those models.

### Advance Payments Prohibited

No payments in advance of or in anticipation of goods or services to be provided under this contract shall be made by the AGENCY.

### Amendments

This contract may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

### Americans with Disabilities Act (ADA) of 1990, Public Law 101-336, Also Referred to as the "ADA" 28 CFR Part 35

The CONTRACTOR must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

### Assignment

Neither this contract, nor any claim arising under this contract, shall be transferred or assigned by the CONTRACTOR without prior written consent of the AGENCY.

### Attorneys' Fees

In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorney fees and costs.

### Confidentiality/Safeguarding of Information

The CONTRACTOR shall not use or disclose any information concerning the AGENCY, or information that may be classified as confidential, for any purpose not directly connected with the administration of this contract, except with prior written consent of the AGENCY, or as may be required by law.

#### Conflict of Interest

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the AGENCY may, in its sole discretion, by written notice to the CONTRACTOR terminate this contract if it is found after due notice and examination by the AGENT that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the CONTRACTOR in the procurement of, or performance under this contract.

In the event this contract is terminated as provided above, the AGENCY shall be entitled to pursue the same remedies against the CONTRACTOR as it could pursue in the event of a breach of the contract by the CONTRACTOR. The rights and remedies of the AGENCY provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the AGENT makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this contract.

#### Covenant Against Contingent Fees

The CONTRACTOR warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the CONTRACTOR for securing business.

The AGENCY shall have the right, in the event of breach of this clause by the CONTRACTOR, to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

#### Disallowed Costs

The CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its SUBCONTRACTORS.

#### Disputes

Except as otherwise provided in this contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with AGENT.

1. The request for a dispute hearing must:
    - A. Be in writing;
    - B. State the disputed issue(s);
    - C. State the relative positions of the parties;
    - D. State the CONTRACTOR's name, address, and contract number; and
    - E. Be mailed to the AGENT and the other party's (respondent's) contract manager within three (3) business days after the parties agree that they cannot resolve the dispute.
  2. The respondent shall send a written answer to the requester's statement to both the agent and the requester within five (5) business days.
  3. The AGENT shall review the written statements and reply in writing to both parties within ten (10) business days. The AGENT may extend this period if necessary by notifying the parties.
  4. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.
- Nothing in this contract shall be construed to limit the parties' choice of a mutually acceptable method, in addition to the dispute resolution procedure outlined above.

#### Duplicate Payment

The AGENCY shall not pay the CONTRACTOR, if the CONTRACTOR has charged or will charge the state of Washington or any other party under any other contract or agreement, for the same services or expenses.

#### Funding

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this contract and prior to normal completion, the AGENCY may terminate the contract under the "Termination for Convenience" clause, without the ten (10) day notice requirement, subject to renegotiation at the AGENCY'S discretion under those new funding limitations and conditions.

#### Governing Law

This contract shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

#### Indemnification

To the fullest extent permitted by law, CONTRACTOR shall indemnify, defend, and hold harmless state, agencies of state and all officials, agents and employees of state, from and against all claims for injuries or death arising out of or resulting from the performance of the contract.

CONTRACTOR expressly agrees to indemnify, defend and hold harmless the state for any claim arising out of or incident to CONTRACTOR's or any SUBCONTRACTOR's performance or failure to perform the contract. CONTRACTOR's obligation to indemnify, defend, and hold harmless the state shall not be eliminated or reduced by any actual or alleged concurrent negligence of State or its agents, agencies, employees and officials.

CONTRACTOR waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the State and its agencies, officials, agents or employees.

#### Independent Capacity of the CONTRACTOR

The parties intend that an independent CONTRACTOR relationship will be created by this contract. The CONTRACTOR and his or her employees or agents performing under this contract are not employees or agents of the AGENCY. The CONTRACTOR will not hold himself/herself out as or claim to be an officer or employee of the AGENCY or of the state of Washington by reason hereof, nor will the CONTRACTOR make any claim of right, privilege or benefit that would accrue to such employee under law. Conduct and control of the work will be solely with the CONTRACTOR.

#### Industrial Insurance Coverage

The CONTRACTOR shall comply with the provisions of Title 51 RCW, Industrial Insurance. If the CONTRACTOR fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees, as may be required by law, AGENCY may collect from the CONTRACTOR the full amount payable to the Industrial Insurance accident fund. The AGENCY may deduct the amount owed by the CONTRACTOR to the accident fund from the amount payable to the CONTRACTOR by the AGENCY under this contract, and transmit the deducted amount to the Washington State Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's right to collect from the CONTRACTOR.

#### Invoice

Invoice Voucher A-19-1 shall provide:

1. Contract Number
2. Month of Service
3. Other Janitorial tasks as directed to perform indicated hours work, hourly rate, and total cost
4. Total amount of invoice



Licensing, Accreditation and Registration

The CONTRACTOR shall comply with all applicable local, state and federal licensing, accreditation and registration requirements/standards, necessary for the performance of this contract.

Limitation of Authority

Only the AGENT or AGENT'S delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this contract. Furthermore, any alteration, amendment, modification, or waiver or any clause or condition of this contract is not effective or binding unless made in writing and signed by the AGENT.

Non-compliance with Non-discrimination Laws

In the event of the CONTRACTOR's non-compliance or refusal to comply with any non-discrimination law, regulation or policy, this contract may be rescinded, canceled or terminated in whole or in part, and the CONTRACTOR may be declared ineligible for further contracts with the AGENCY. The CONTRACTOR shall, however, be given a reasonable time in which to cure this non-compliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

Payment

Payment shall be made within thirty (30) days of a properly completed invoice, form A19-1A.

OSHA/WISHA Standards

CONTRACTOR agrees to comply with conditions of the Federal Occupational Safety and Health Acts of 1970 (OSHA), and the Washington Industrial Safety and Health Act of 1973 (WISHA) during the entire term(s) of said contract.

Prevailing Wage

CONTRACTOR agrees to comply with conditions,  
<http://www.lni.wa.gov/TradesLicensing/PrevWage/default.asp> during the entire term(s) of said contract.

Questions should be directed to the Industrial Statistician, Department of Labor and Industries. By this reference these wage rates are made part of this contract.

The CONTRACTOR must submit to the Industrial Statistician of the Department of Labor and Industries a "Statement of Intent to Pay Prevailing Wages." A copy of the approved intent statements must be submitted to the AGENCY in order to receive the first progress payment on this contract.

Privacy

Personal information including, but not limited to, "Protected Health Information", collected, used, or acquired in connection with this contract shall be protected against unauthorized use, disclosure, modification or loss. CONTRACTOR shall ensure its directors, officers, employees, SUBCONTRACTORS or agents use personal information solely for the purposes of accomplishing the services set forth herein. CONTRACTOR and its SUBCONTRACTORS agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the AGENCY or as otherwise required by law.

Any breach of this provision may result in termination of the contract and the demand for return of all personal information. The CONTRACTOR agrees to indemnify and hold harmless the AGENCY for any damages related to the CONTRACTOR's unauthorized use of personal information.

#### Publicity

The CONTRACTOR agrees to submit to the AGENCY all advertising and publicity matters relating to this contract wherein the AGENCY'S name is mentioned or language used from which the connection of the AGENCY'S name may, in the AGENCY'S judgment, be inferred or implied. The CONTRACTOR agrees not to publish or use such advertising and publicity matters without the prior written consent of the AGENCY.

#### Records Maintenance

The CONTRACTOR shall maintain books, records, documents, data and other evidence relating to this contract and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract.

CONTRACTOR shall retain such records for a period of six (6) years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by the AGENCY, personnel duly authorized by the AGENCY, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement. If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

#### Registration with Department of Revenue

The CONTRACTOR shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this contract.

#### Right of Inspection

The CONTRACTOR shall provide right of access to its facilities to the AGENCY, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this contract.

#### Severability

The provisions of this contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the contract.

#### Site Security

While on AGENCY premises, CONTRACTOR, its agents, employees or SUBCONTRACTORS shall conform in all respects with physical, fire or other security policies or regulations.

#### Subcontracting

Neither the CONTRACTOR nor any SUBCONTRACTOR shall enter into subcontracts for any of the work contemplated under this contract without obtaining prior written approval of the AGENCY. In no event shall the existence of the subcontract operate to release or reduce the liability of the CONTRACTOR to the AGENCY for any breach in the performance of the CONTRACTOR'S duties. This clause does not include contracts of employment between the CONTRACTOR and personnel assigned to work under this contract.

Additionally, the CONTRACTOR is responsible for ensuring that all terms, conditions, assurances and certifications set forth in this agreement are carried forward to any subcontracts. CONTRACTOR and its SUBCONTRACTORS agree not to release, divulge, publish, transfer, sell or otherwise make known to

unauthorized persons personal information without the express written consent of the AGENCY or as provided by law.

#### Taxes

All payments accrued because of payroll taxes, unemployment contributions, any other taxes, insurance or other expenses for the CONTRACTOR or its staff shall be the sole responsibility of the CONTRACTOR.

#### Termination for Cause

In the event the AGENCY determines the CONTRACTOR has failed to comply with the conditions of this contract in a timely manner, the AGENCY has the right to suspend or terminate this contract. Before suspending or terminating the contract, the AGENCY shall notify the CONTRACTOR in writing of the need to take corrective action. If corrective action is not taken within thirty (30) calendar days, the contract may be terminated or suspended.

In the event of termination or suspension, the CONTRACTOR shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

The AGENCY reserves the right to suspend all or part of the contract, withhold further payments, or prohibit the CONTRACTOR from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the CONTRACTOR or a decision by the AGENCY to terminate the contract. A termination shall be deemed a "Termination for Convenience" if it is determined that the CONTRACTOR: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence. The rights and remedies of the AGENCY provided in this contract are not exclusive and are, in addition to any other rights and remedies, provided by law.

#### Termination for Convenience

Except as otherwise provided in this contract, the AGENCY may, by ten (10) calendar days written notice, beginning on the second day after the mailing, terminate this contract, in whole or in part. If this contract is so terminated, the AGENCY shall be liable only for payment required under the terms of this contract for services rendered or goods delivered prior to the effective date of termination.

#### Termination Procedures

Upon termination of this contract, the AGENCY, in addition to any other rights provided in this contract, may require the CONTRACTOR to deliver to the AGENCY any property specifically produced or acquired for the performance of such part of this contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

The AGENCY shall pay to the CONTRACTOR the agreed upon price, if separately stated, for completed work and services accepted by the AGENCY, and the amount agreed upon by the CONTRACTOR and the AGENCY for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by the AGENCY, and (iv) the protection and preservation of property, unless the termination is for default, in which case the AGENT shall determine the extent of the liability of the AGENCY. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract.

The AGENCY may withhold from any amounts due the CONTRACTOR such sum as the AGENT determines to be necessary to protect the AGENCY against potential loss or liability. The rights and

remedies of the AGENCY provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a notice of termination, and except as otherwise directed by the AGENT, the CONTRACTOR shall:

1. Stop work under the contract on the date, and to the extent specified, in the notice;
2. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract that is not terminated;
3. Assign to the AGENCY, in the manner, at the times, and to the extent directed by the AGENT, all of the rights, title, and interest of the CONTRACTOR under the orders and subcontracts so terminated, in which case the AGENCY has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
4. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the AGENT to the extent AGENT may require, which approval or ratification shall be final for all the purposes of this clause;
5. Transfer title to the AGENCY and deliver in the manner, at the times, and to the extent directed by the AGENT any property which, if the contract had been completed, would have been required to be furnished to the AGENCY;
6. Complete performance of such part of the work as shall not have been terminated by the AGENT; and
7. Take such action as may be necessary, or as the AGENT may direct, for the protection and preservation of the property related to this contract, which is in the possession of the CONTRACTOR and in which the AGENCY has or may acquire an interest.

#### Treatment of Assets

1. Title to all property furnished by the AGENCY shall remain in the AGENCY. Title to other property, the cost of which is reimbursable to the CONTRACTOR under this contract, shall pass to and vest in the AGENCY upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the AGENCY in whole or in part, whichever first occurs.
2. Any property of the AGENCY furnished to the CONTRACTOR shall, unless otherwise provided herein or approved by the AGENCY, be used only for the performance of this contract.
3. The CONTRACTOR shall be responsible for any loss or damage to property of the AGENCY that results from the negligence of the CONTRACTOR or that results from the failure on the part of the CONTRACTOR to maintain and administer that property in accordance with sound management practices.
4. If any AGENCY property is lost, destroyed or damaged, the CONTRACTOR shall immediately notify the AGENCY and shall take all reasonable steps to protect the property from further damage.
5. The CONTRACTOR shall surrender to the AGENCY all property of the AGENCY prior to settlement upon completion, termination or cancellation of this contract.
6. All reference to the CONTRACTOR under this clause shall also include CONTRACTOR's employees, agents or SUBCONTRACTOR's.

#### Waiver

Waiver of any default or breach shall not be deemed a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this contract unless stated to be such in writing and signed by authorized representative of the AGENCY.

EXHIBIT B – THERMO KING NORTHWEST, INC. -- PRICE LIST

	<u>Espar Number</u>	<u>TK Number</u>	<u>Description</u>
School Option #1 Front Engine	25 2823 25 0506	841707	Basic D5 E-Guardian 12V Kit
School Option #2 Rear Engine	25 2824 72 1201	841708	Basic M-II E-Guardian 12V Kit
Transit #1	25 2822 57 0420	840855	D4 Hydronic Heater with universal installation kit
	22 1000 30 36 00	841449	7 Day Timer with Diagnostics 12 volt
		R-254-4P	Red Dot 20000 BTU Heater
		400999	Eon Power Pack
		400523	Relay Kit

Technology Option 1: Diesel Powered Engine Pre-Heaters

Bus Type	Bus Year	Bus Mfg	Eng Mfg	Eng Model	Engine Size	Eng HP	Front or Rear Engine	Fuel Tank Location	Luggage Compartment	Retrofit Price
Transit	2007	Gillig (40")	Cummins	ISM	10.8 L	280	Rear	Center	No	\$1,904.23
Transit	2007	Gillig (40")	Cummins	ISM	10.8 L	280	Rear	Center	No	\$1,904.23
Transit	2007	Gillig (40")	Cummins	ISM	10.8 L	280	Rear	Center	No	\$1,904.23
Transit	2007	Gillig (27")	Cummins	ISB	5.9 L	245	Rear	Center	No	\$1,904.23
Transit	2007	Gillig (27")	Cummins	ISB	5.9 L	245	Rear	Center	No	\$1,904.23
Transit	2007	Gillig (27")	Cummins	ISB	5.9 L	245	Rear	Center	No	\$1,904.23
Transit	2007	Gillig (27")	Cummins	ISB	5.9 L	245	Rear	Center	No	\$1,904.23
Transit	2007	Gillig (27")	Cummins	ISB	5.9 L	245	Rear	Center	No	\$1,904.23
Transit	2006	Gillig (40")	Cummins	ISM	10.8 L	280	Rear	Center	No	\$1,904.23
Transit	2006	Gillig (40")	Cummins	ISM	10.8 L	280	Rear	Center	No	\$1,904.23
Transit	2005	Gillig (40")	Cummins	ISM	10.8 L	280	Rear	Center	No	\$1,904.23
Transit	2005	Gillig (40")	Cummins	ISM	10.8 L	280	Rear	Center	No	\$1,904.23
Transit	2005	Gillig (40")	Cummins	ISM	10.8 L	280	Rear	Center	No	\$1,904.23
Transit	2005	Gillig (40")	Cummins	ISM	10.8 L	280	Rear	Center	No	\$1,904.23

## Technology Option 2: Diesel Powered Engine Pre-Heaters / Cabin Heaters

Bus Type	Bus Year	Bus Mfg	Eng Mfg	Eng Model	Engine Size	Eng HP	Bus Class	Front or Rear Engine	Fuel Tank Location	Luggage Compartment	Retrofit Price
School	2010	Bluebird	Cummins	ISB	5.9 L	200	B	Front	Right Front	Yes	\$2,206.28
School	2010	International	International	Max V8	7.6 L	215	C	Front	Right Front	Yes	\$2,206.28
School	2010	International	International	Max V8	7.6 L	215	C	Front	Right Front	Yes	\$2,206.28
School	2010	International	International	Max V8	7.6 L	215	C	Front	Right Front	Yes	\$2,206.28
School	2009	Bluebird	Cummins	ISB	6.7 L	250	C	Front	Right Front	Both Sides	\$2,206.28
School	2009	International	International	Max V8	7.6 L	215	C	Front	Right Front	Both Sides	\$2,206.28
School	2009	International	International	Max V8	7.6 L	215	C	Front	Right Front	Both Sides	\$2,206.28
School	2009	International	International	Maxforce	7.6 L	225	C	Front	Right Front	Both Sides	\$2,206.28
School	2009	International	International	Maxforce	7.6 L	230	C	Front	Right Front	No	\$2,206.28
School	2009	International	International	Maxforce7	6.7 L	215	C	Front	Right Side	Right Side	\$2,206.28
School	2009	International	International	Maxforce7	6.7 L	215	C	Front	Right Side	Left Side (2)	\$2,206.28
School	2009	Thomas	Cummins	ISB	6.7 L	240	C	Front	Right Side	Yes	\$2,206.28
School	2008	Blue Bird	Cummins	ISB	5.9 L	220	C	Front	Front	No	\$2,206.28
School	2008	International	International	DT466HT	7.6 L	225	C	Front	Right Side	Both Sides	\$2,206.28
School	2008	International	International	DT466HT	7.6 L	225	C	Front	Right Side	Both Sides	\$2,206.28
School	2008	International	International	DT466HT	7.6 L	225	C	Front	Right Side	Both Sides	\$2,206.28
School	2008	International	International	DT466HT	7.6 L	225	C	Front	Right Side	Both Sides	\$2,206.28
School	2008	International	International	DTE466	7.6 L	285	D	Rear	Center	Both Sides	\$3,206.28
School	2008	Thomas	Cummins	ISB	6.7 L	240	C	Front	Right Center	Yes	\$2,206.28
School	2007	Bluebird	Caterpillar	C7	7.2 L	250	D	Rear	Right Front	Both Sides	\$3,206.28
School	2007	International	International	VT365	6.0 L	215	C	Front	Right Front	No	\$2,206.28
School	2007	International	International	VT365	6.0 L	215	C	Front	Right Front	No	\$2,206.28
School	2007	International	International	VT365	6.4 L	215	C	Front	Right Front	No	\$2,206.28
School	2007	International	International	VT365	6.4 L	215	C	Front	Right Front	No	\$2,206.28
School	2006	Bluebird	Caterpillar	C7	7.2 L	190	D	Rear	Right Front	Both Sides	\$3,206.28
School	2006	International	International	DTE466	7.6 L	225	C	Front	Front	No	\$2,206.28
School	2006	International	International	VT365	6.4 L	215	B	Front	Front	No	\$2,206.28
School	2006	International	International	VT365	6.4 L	215	B	Front	Front	No	\$2,206.28
School	2005	International	International	DTE466	7.6 L	225	C	Front	Front	No	\$2,206.28
School	2005	International	International	DTE466	7.6 L	225	C	Front	Front	No	\$2,206.28
School	2005	International	International	DTE466	7.6 L	225	C	Front	Front	No	\$2,206.28
School	2004	Bluebird	Cummins	ISC	8.3 L	260	B	Rear	Right Side	Both Sides	\$3,206.28
School	2000	Bluebird	Cummins	ISB	5.9 L	250	D	Front	Right Back	Both Sides	\$2,206.28
School	1998	Thomas	Cummins	ISC	8.3 L	250	B	Rear	Right Side	No	\$3,206.28

**Technology Option 3: Diesel Powered Engine Pre-Heaters / Electric Hybrid Cabin Heaters**

Bus Type	Bus Year	Bus Mfg	Eng Mfg	Eng Model	Engine Size	Eng HP	Bus Class	Front or Rear Engine	Fuel Tank Location	Luggage Compartment	Retrofit Price
School	2010	Thomas	Cummins	ISC	8.3 L	285	B	Rear	Right Side	Both Sides	\$3,011.46
School	2009	Bluebird	Caterpillar	C7	7.2 L	250	D	Rear	Right Front	Both Sides	\$3,011.46
School	2009	Bluebird	Caterpillar	C7	7.2 L	250	D	Rear	Right Front	Both Sides	\$3,011.46
School	2009	Thomas	Cummins	ISC	8.3 L	285	B	Rear	Right Side	Both Sides	\$3,011.46
School	2008	Blue Bird	Caterpillar	C7	7.2 L	250	D	Rear	Right Front	Both Sides	\$3,011.46
School	2006	Bluebird	Caterpillar	C7	7.2 L	250	D	Rear	Right Front	Both Sides	\$3,011.46
School	2006	Bluebird	Caterpillar	C7	7.2 L	250	D	Rear	Right Front	Both Sides	\$3,011.46
School	2006	Bluebird	Caterpillar	C7	7.2 L	250	D	Rear	Right Front	Both Sides	\$3,011.46
School	2006	Bluebird	Caterpillar	C7	7.2 L	250	D	Rear	Right Front	Both Sides	\$3,011.46
School	2005	Thomas	Mercedes	MBE900	6.4 L	260	B	Rear	Right Side	Both Sides	\$3,011.46
School	2005	Thomas	Mercedes	MBE900	6.4 L	260	B	Rear	Right Side	Both Sides	\$3,011.46
School	2004	Thomas	Cummins	ISC	8.3 L	285	B	Rear	Right Side	Both Sides	\$3,011.46
School	2003	Thomas	Cummins	ISC	5.9 L	210	B	Rear	Right Side	No	\$3,011.46
School	2002	Bluebird	GMC	GM6.5L	6.5 L	160	C	Front	Right Side	None	\$3,011.46
School	2002	Thomas	Cummins	ISC	8.3 L	285	B	Rear	Right Side	Both Sides	\$3,011.46
School	2001	Blue Bird	Cummins	ISC	5.9 L	190	D	Front	Right Back	Both Sides	\$3,011.46
School	1994	Collins	International	3700	7.3 L	275	A	Front	Left Back	No	\$3,011.46
School	1993	Blue Bird	Cummins	ISB	5.9 L	190	D	Rear	Right Front	Both Sides	\$3,011.46
School	1990	Blue Bird	International	3700	7.3 L	275	C	Front	Right Front	No	\$3,011.46
School	1990	Wayne	International	3700	7.3 L	275	C	Front	Right Front	No	\$3,011.46

## Optional Upgrades

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20 2800 40 05 01

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